

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

EUGENE MCGRUDER D/B/A BIG VALLEY MOBILE)	
HOME SUBDIVISION SEWAGE TREATMENT PLANT)	
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INVESTIGATION INTO THE CONDITION AND)	CASE NO. 94-451
JURISDICTIONAL STATUS OF SEWAGE UTILITY)	
FACILITIES)	

O R D E R

This matter concerns the jurisdictional status and condition of the sewage treatment plant which serves the Big Valley Mobile Home Subdivision of Bullitt County, Kentucky. It poses two issues: (1) Is the owner of the sewage treatment facilities in question a "utility" and thus subject to Commission jurisdiction? and (2) Have these facilities been abandoned? Having considered the evidence of record, the Commission finds in the affirmative on both issues.

On September 20, 1994, the Attorney General ("AG") and the Natural Resources and Environmental Protection Cabinet ("NREPC") requested a review of the jurisdictional status of sewage treatment facilities serving the Big Valley Mobile Home Subdivision. They asserted that the plant and its related facilities are subject to Commission jurisdiction and are not being operated in accordance with Commission regulations.

Prior to the receipt of this request, Commission Staff conducted a field investigation of the sewage treatment plant in question on March 28, 1994. In the report of its investigation,

Commission Staff made several findings which suggested that the sewage treatment plant was subject to Commission jurisdiction.

On December 1, 1994, the Commission ordered Eugene McGruder, the owner of Big Valley Mobile Home Park Sewage Treatment Plant to appear before the Commission to present evidence on the jurisdictional status of the sewage treatment plant, its compliance with Commission regulations, and whether it had been abandoned. The AG and NREPC appeared at a hearing on January 9, 1995 and presented evidence on these issues. Prior to the hearing, Mr. McGruder, through his legal counsel, notified the AG and NREPC that he would not appear.

Having considered the evidence of record and being otherwise sufficiently advised, the Commission finds that:

1. Eugene McGruder owns the Big Valley Mobile Home Park Sewage Treatment Plant.
2. This plant is located in Bullitt County, Kentucky and serves 58 residents of the Big Valley Mobile Home Park Subdivision.
3. Each customer pays a monthly fee of \$20 to the Big Valley Condo Association for water, garbage, and streetlight services and common area maintenance. Additionally each customer must pay a \$10 monthly fee to Eugene McGruder for sewer service.
4. The Big Valley Condo Association collects both fees and forwards the sewer service fee to McGruder.
5. Electric service to the sewage treatment plant was discontinued in December 1993 for nonpayment of bills.

6. Since December 1993, the sewage treatment facilities have not functioned.

7. Since on or before July 1, 1994, raw sewage has bypassed the sewage treatment plant's treatment lagoon.

8. The contents of the plant's treatment lagoon are septic.

9. Throughout most of 1994, the plant's chlorine chamber lacked chlorine. As a result, the plant's effluent has not received chlorine treatment.

10. The plant's existing condition poses a threat to public health and safety.

11. Until 1993, Mr. McGruder held a Kentucky Pollutant Discharge Elimination Permit for the sewage treatment plant. He failed to apply for renewal of this permit and the permit lapsed. The plant is currently discharging effluent in violation of Kentucky law.

12. The sewage treatment plant does not have a certified plant operator.

13. Franklin Circuit Court has on several occasions ordered Mr. McGruder to operate and maintain the sewage treatment facilities. Mr. McGruder has failed to comply with these orders and been found in contempt of court for his failures.

Based upon these findings, the Commission makes the following conclusions of law:

1. The Big Valley Mobile Home Park Subdivision Sewage Treatment Plant is a facility used in connection with the treatment of sewage for the public for compensation.

2. Mr. McGruder, doing business as the Big Valley Mobile Home Park, owns the Big Valley Mobile Home Park Subdivision Sewage Treatment Plant and is therefore a "utility." KRS 278.010(3)(f).

3. Mr. McGruder has abandoned the Big Valley Mobile Home Park Subdivision Sewage Treatment Plant.


Pursuant to KRS 278.021, IT IS HEREBY ORDERED that:

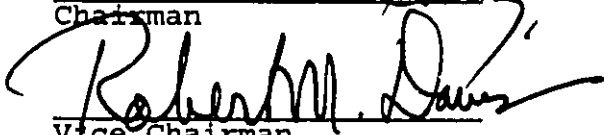
1. The Big Valley Mobile Home Park Subdivision Sewage Treatment is declared abandoned.

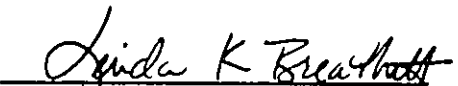
2. The appointment of a receiver to operate the Big Valley Mobile Home Park Sewage Treatment Plant is necessary.

Done at Frankfort, Kentucky, this 9th day of May, 1995.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director